

services as the estimated aggregate amount of these payments in 1991, adjusted by the update for 1992 computed as specified in § 414.30.

(b) *Subsequent CFs.* For calendar years 1993 through 1995, the CF for each year is equal to the CF for the previous year, adjusted in accordance with § 414.30. Beginning January 1, 1996, the CF for each calendar year may be further adjusted so that adjustments to the fee schedule in accordance with section 1848(c)(2)(B)(ii) of the Act do not cause total expenditures under the fee schedule to differ by more than \$20 million from the amount that would have been spent if these adjustments had not been made.

[56 FR 59624, Nov. 25, 1991, as amended at 57 FR 42492, Sept. 15, 1992; 60 FR 53877, Oct. 18, 1995; 60 FR 63177, Dec. 8, 1995]

#### § 414.30 Conversion factor update.

Unless Congress acts in accordance with section 1848(d)(3) of the Act—

(a) *General rule.* The CF update for a CY equals the Medicare Economic Index increased or decreased by the number of percentage points by which the percentage increase in expenditures for physician services (or for a particular category of physician services, such as surgical services) in the second preceding FY over the third preceding FY exceeds the performance standard rate of increase established for the second preceding FY.

(b) *Downward adjustment.* The downward adjustment may not exceed the following:

- (1) For CYs 1992 and 1993, 2 percentage points.
- (2) For CY 1994, 2.5 percentage points.
- (3) For CYs 1995 and thereafter, 5 percentage points.

[55 FR 23441, June 8, 1990, as amended at 60 FR 63177, Dec. 8, 1995; 61 FR 42385, Aug. 15, 1996]

#### § 414.32 Determining payments for certain physicians' services furnished in facility settings.

(a) *Definition.* As used in this section, *facility settings* include the following facilities:

- (1) Hospital outpatient departments, including clinics and emergency rooms.
- (2) Hospital inpatient departments.

(3) Comprehensive outpatient rehabilitation facilities.

(4) Comprehensive inpatient rehabilitation facilities.

(5) Inpatient psychiatric facilities.

(6) Skilled nursing facilities.

(b) *General rule.* If physicians' services of the type routinely furnished in physicians' offices are furnished in facility settings before January 1, 1999, the physician fee schedule amount for those services is determined by reducing the practice expense RVUs for the services by 50 percent. For services furnished on or after January 1, 1999, the practice expense RVUs are determined in accordance with § 414.22(b)(5).

(c) *Services covered by the reduction.* CMS establishes a list of services routinely furnished in physicians' offices nationally. Services furnished at least 50 percent of the time in physicians' offices are subject to this reduction.

(d) *Services excluded from the reduction.* The reduction established under this section does not apply to the following:

- (1) Rural health clinic services.
- (2) Surgical services not on the ambulatory surgical center covered list of procedures published under § 416.65(c) of this chapter when furnished in an ambulatory surgical center.
- (3) Anesthesiology services and diagnostic and therapeutic radiology services.

[58 FR 63687, Dec. 2, 1993, as amended at 60 FR 63177, Dec. 8, 1995; 62 FR 59102, Oct. 31, 1997; 63 FR 58911, Nov. 2, 1998; 64 FR 25457, May 12, 1999]

#### § 414.34 Payment for services and supplies incident to a physician's service.

(a) *Medical supplies.* (1) Except as otherwise specified in this paragraph, office medical supplies are considered to be part of a physician's practice expense, and payment for them is included in the practice expense portion of the payment to the physician for the medical or surgical service to which they are incidental.

(2) If physician services of the type routinely furnished in provider settings are furnished in a physician's office, separate payment may be made for certain supplies furnished incident to that